



**DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
ENFORCEMENT DIVISION
*DIRECTIVE***

**DIRECTIVE NUMBER
233**

**DISTRIBUTION DATE
February 7, 2005**

1. **SUBJECT: SERVICE OF COMPLAINTS**
2. **PURPOSE:** To set forth the procedures for serving complaints filed with the Department of Fair Employment and Housing (DFEH).
3. **BACKGROUND:** Government Code section 12962 requires that complaints be served in person or by certified mail upon the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice. Section 12962 also requires that service occur at the time of the initial contact with the respondent or within 60 days, whichever occurs first. This Directive describes the procedures for serving employment, Unruh, and Ralph Act complaints and provides guidelines for ensuring that complaints are properly served.
4. **PROCEDURES:**
 - A. **Service Timeframes and Process:**
 - 1) Government Code section 12962 requires that complaints be served within sixty (60) days of filing. Department policy, however, provides that complaints be served as soon as possible after filing, according to the following guidelines:
 - a) Every effort should be made to serve complaints within two (2) working days of filing.
 - b) Complaints that are dual filed with the EEOC **must** be served within ten (10) working days of filing.
 - c) When the complaint is filed on complaint form DFEH 300-03 ("c" complaints), and the complainant has indicated that he or she has hired or retained private counsel for the purpose of representation of the claim in court, the private counsel, and not the Department, shall have the complaint served on the respondent(s). Within two (2) working days, and in no case later than ten (10) days, from the complaint filing date, the support staff will mail a copy of the complaint and related

documents to the complainant's attorney in accordance with the instructions in the Enforcement Division's Clerical Case Processing Manual.

- d) When the complaint is filed on complaint form DFEH 300-03 ("c" complaints) and complainant has not hired or retained private counsel, or the complaint is filed on complaint form DFEH 300-04 ("b" complaints) regardless of whether the complainant has hired or retained private counsel, then support staff shall serve the complaint and related documents on respondent(s) in accordance with the instructions in the Enforcement Division's Clerical Case Processing Manual within two (2) working days, and in no case later than ten (10) days, from the complaint filing date. A copy of the Right-to-Sue notice shall simultaneously be mailed to the complainant.
- 2) In the unusual event when service by the Department is not effectuated within the 60-day period required by Government Code section 12962 (e.g., the respondent refuses to accept service, etc.), it is the Department's position that service is valid as long as it is initiated within 60 days from filing.
 - a) When service was not initiated within 60 days of filing, the original complaint will continue to be used for service. A new complaint will not be filed. In the event that a respondent disputes jurisdiction, the District Administrator will immediately contact the assigned attorney.
 - b) If, after initiating service, it is determined the respondent's name is incorrect, **the complaint will be amended** to reflect the correct respondent name. If the respondent's address is incorrect, the original complaint will be **corrected** to redress the error and copied for a second service. (An address correction is NOT an amendment.)
 - c) Every service attempt will be recorded in the Case Diary and reflect the name of the person attempting service,